

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

A-1 National Fire Co. LLC,

Case No. 20-cv-1706 (WMW/DTS)

Plaintiff,

**ORDER DENYING DEFENDANTS'
MOTION TO DISMISS**

v.

Freedom Fire LLC, et al.,

Defendants.

Plaintiff A-1 National Fire Co. LLC (A-1) commenced this action on July 30, 2020, asserting claims for breach of contract, misappropriation of trade secrets, breach of the common-law duty of confidentiality, tortious interference with prospective economic advantage, and tortious interference with contract. Defendants filed a motion to dismiss A-1's complaint on August 11, 2020. (Dkt. 20.) On October 23, 2020, A-1 filed an amended complaint that contains several revisions, including additional factual allegations, amendments to counts of the complaint, and the inclusion of two additional counts. Subsequently, A-1 filed a motion to strike that seeks, among other things, denial of Defendants' motion to dismiss as moot. (Dkt. 81.)

An amended complaint supersedes an original complaint and divests the original complaint of any legal effect. *See In re Wireless Tel. Fed. Cost Recovery Fees Litig.*, 396 F.3d 922, 928 (8th Cir. 2005). For this reason, when a plaintiff files an amended complaint while a motion to dismiss is pending, the amended complaint typically renders the motion to dismiss moot. *Onyiah v. St. Cloud State Univ.*, 655 F. Supp. 2d 948, 958

(D. Minn. 2009) (citing *Pure Country, Inc. v. Sigma Chi Fraternity*, 312 F.3d 952, 956 (8th Cir. 2002)). As that is the circumstance here, Defendants' motion to dismiss A-1's original complaint is moot.

ORDER

Based on the foregoing analysis and all the files, records and proceedings herein, **IT IS HEREBY ORDERED** that:

1. Plaintiff A-1 National Fire Co. LLC's motion to strike, (Dkt. 81), is **GRANTED IN PART AND DENIED IN PART** as follows:

- a. Plaintiff A-1 National Fire Co. LLC's motion to deny as moot Defendants' motion to dismiss the complaint is **GRANTED**; and
- b. Plaintiff A-1 National Fire Co. LLC's motion to strike is **DENIED** in all other respects.

2. Defendants' motion to dismiss Plaintiff A-1 National Fire Co. LLC's complaint, (Dkt. 20), is **DENIED AS MOOT**.

3. The December 15, 2020 hearing is **CANCELLED**.

4. Plaintiff A-1 National Fire Co. LLC's motion to compel arbitration, (Dkt. 42), will be heard at a later date in conjunction with a renewed motion to dismiss the amended complaint, if any is filed.

5. Pursuant to Rule 12(a)(4)(A), Fed. R. Civ. P., Defendants' deadline to file any responsive pleading as to the amended complaint is 14 days after the date of this Order.

6. Counsel for the parties are reminded of their obligation to *strictly* comply with the Federal Rules of Civil Procedure, the Local Rules, and the undersigned United States District Judge's Practice Pointers.

Dated: December 10, 2020

s/Wilhelmina M. Wright
Wilhelmina M. Wright
United States District Judge